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BEFORE THE
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of
Equal Access and Interconnection
Obligation Pertaining to
Commercial Mobile Radio Service

CC Docket No. 94-54
RM 8012

To: The Commission

INITIAL COMMENTS
OF
AMERICELL PA-3 LIMITED PARTNERSHIP

Americell PA-3 Limited Partnership ("Americell") respectfully submits its Initial Comments in connection with the captioned proceeding in response to the Notice of Proposed Rulemaking and Notice of Inquiry in CC Docket No. 49-54, released July 1, 1994, (the "NPRM" or "Rulemaking").¹

I. INTRODUCTION

1. Americell has a direct, tangible interest in the issues raised by this Rulemaking. Americell is the non-wireline cellular telephone carrier in Pennsylvania RSA 614A, Potter, PA-3.

2. Americell requests that the Commission not impose equal access requirements upon independent cellular providers. There are no historic or other public policy justifications for imposing equal access upon independent cellular providers. Equal access

¹ These Initial Comments are timely filed pursuant to the Commission's revised schedule in this proceeding. Order, DA 94-877, released August 11, 1994 (Com. Car. Bur.).

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will impose large and unwarranted costs on independent cellular providers and their customers, stunt the development of the independent cellular industry, and yield no meaningful countervailing public policy benefits.

II. THERE ARE NO HISTORIC OR OTHER PUBLIC POLICY JUSTIFICATIONS FOR IMPOSING EQUAL ACCESS UPON INDEPENDENT CELLULAR PROVIDERS

3. No justification exists for imposing equal access obligations on independent cellular providers who neither directly control, nor are affiliated with, entities that control local exchange facilities. Equal access obligations were imposed upon the Regional Bell Operating Companies ("RBOCs") by the Modified Final Judgment ("MFJ") as a result of their control over local exchange networks. Independent cellular telephone providers such as Americell do not have such control over local exchanges and are not parties to the MFJ. The FCC should not let the MFJ, a voluntary agreement between the Department of Justice, AT&T, and its former operating subsidiaries, dictate regulatory policy here.

4. The competitive status of the mobile services marketplace, which has only become more competitive through the introduction of Enhanced Specialized Mobile Radio ("ESMR") and Personal Communications Services ("PCS"), does not justify imposing this substantial additional burden on independent cellular providers.

**III. EQUAL ACCESS WILL IMPOSE LARGE (AND UNWARRANTED) COSTS
ON BOTH INDEPENDENT CELLULAR OPERATORS AND CONSUMERS**

5. Small and independent cellular operators, to a far greater extent than their larger and wireline counterparts, must rely on revenues generated through long distance service in order to cover their operating expenses and provide competitively priced service to customers within their market(s). The costs of implementing and maintaining Interexchange Carrier ("IXC") access will be significant. Independent cellular operators, like Americell, that do not have substantial financial resources, will be forced to pass such costs on in the form of higher prices to their customers or go out of business.

6. Although equal access would give cellular customers the right to choose IXCs, the costs of implementing and maintaining equal access far outweigh any benefits. Equal access would foreclose the ability of independent cellular operators, such as Americell, to obtain volume discounts with the IXC that offers the lowest rate with superior service quality.

**IV. EQUAL ACCESS WILL STUNT THE DEVELOPMENT
OF THE INDEPENDENT CELLULAR INDUSTRY**

7. Americell believes equal access will discourage investments in seamless wide-area systems, create disincentives for further improvements, and hamper cellular operators' ability to compete against other wireless service providers in meeting the communications needs of consumers.

8. In keeping with recent pronouncements surrounding the Administration's and the Commission's commitment to telecommunications infrastructure buildout and streamlined regulation, the FCC should give cellular carriers the maximum flexibility to adapt and upgrade their networks to meet emerging wireless competition. Increased regulatory burdens will only serve ultimately to harm the consumer.

**V. IMPOSITION OF EQUAL ACCESS WILL YIELD
NO COUNTERVAILING PUBLIC POLICY BENEFITS**

9. The primary result of equal access will be a transfer of wealth from independent cellular operators, such as Americell, to large IXC's such as AT&T, MCI and Sprint. Such a result would raise the cellular operators' costs and, consequently, their charges to consumers. In addition, the imposition of equal access will decrease investment in and upgrading of cellular networks.

10. There is little empirical evidence that cellular customers desire equal access. In fact, most evidence is to the contrary.

VI. CONCLUSION

While equal access may sound like an attractive and even "democratic" goal, the imposition of this equal access requirement will result in severe economic burdens on independent cellular carriers without any countervailing benefit to the consumer. Accordingly, Americell requests that the FCC reject the imposition of equal access on independent cellular operators.

Respectfully Submitted,

AMERICELL PA-3 LIMITED PARTNERSHIP

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